

A HEART-RENDING CALAMITY IN ROANE COUNTY, WEST VIRGINIA.—A gentleman just from Roane County gives the particulars of a most heart-rending calamity that happened last week on Spring Creek in that County, and by which one family was bereft of four children in less than an hour.

A lady, whose name our informant had forgotten, residing upon the above named creek, had went down to it in the morning for the purpose of doing "the week's washing," taking with her the youngest child, an infant about a year old, leaving her other three at the house. While engaged at her work she heard suppressed screams at the house; taking up her little child from the soiled clothes upon which it was sitting, she placed it in an empty wash-tub to keep it from crawling into the creek during her absence, and hastened to the house, where she met her eldest child with its head frightfully disfigured and swollen. She hastily gleaned from this one that the three children had crawled under the house in search of eggs; that while under something hurt them, and that the other two were still under the house. The mother upon looking under the house found them dead, with several moccasin snakes (a very poisonous and deadly species) crawling around their bodies. The neighbors were alarmed, and by their assistance the snakes were killed, and the unfortunate children taken out, their bodies presenting a frightful and sickening appearance. By this time the elder one was a corpse. The mother in her despair and agony had forgotten until now her little one at the creek, and upon going down to the creek for it, it was only to find it also a corpse in the creek. It is supposed the little child climbed up in the tub, and was holding on to the lower edge of it, when the tub upset, rolling the child into the water below and drowning it. It is said the mother's grief was so great that at last accounts she was a raving maniac.

[Point Pleasant Journal.]

RAILROAD CONSOLIDATION.—The Erie and New York Central Railroads have at length arranged to bury the hatchet, stop their ruinous war of excessively low freights, and to consolidate. Jay Gould, President of the Erie, so telegraphs to the Vice-President of the Pennsylvania Railroad.

Special Notices.

CHOLERA—The following letter is from Mr. Woodward, of St. Louis, to J. N. Harris, Esq., of New London, Conn. Mr. W. is a gentleman of high respectability, and during the prevalence of the cholera in St. Louis, watched the result of the application of the Pain Killer for this disease, and his testimony can be relied upon with the utmost confidence:

DEAR SIR: You recollect when I saw you in January last, my expressing to you my most sanguine expectations that Davis' PAIN KILLER would have a tremendous sale in the West this season, and my anticipations have been more than realized, and the testimony of thousands who have used it has been that they would not be willing to go to bed at night without it in the house.

On the appearance of the cholera in this city, such was the confidence in the Pain Killer as a remedy, that many who purchased it remarked to me that they had no fears or dread of the cholera, as long as they had the Pain Killer by them, and hundreds took it daily as a preventative, for no person can have a derangement of the bowels or diarrhoea, if they use this medicine. This was the security and confidence of hundreds acquainted with it, and when their friends were attacked with the cholera, they would administer the remedy in large quantities, and in every case when it has been taken in any of the first stages of this disease, it has proved successful.

I consider it an infallible remedy. I have not heard of any individual in any family who used the Pain Killer when attacked, but speedily recovered.

The clerk informed me that he administered it to persons when cold or in the cramps, and it gave immediate relief, but still it should be given quickly, for when the discharge of "rice water" has begun, the hope of life has fled. Should this disease make its appearance among you, as in all probability it will, be not alarmed; you and all others there have the remedy, and I am confident if the Pain Killer is used, not a single death by cholera will occur in your city. Respectfully yours, A. T. WOODWARD.

45 The Pain Killer is sold by all dealers in Family Medicines. Aug 24 1mo

WEDLOCK—THE BASIS OF CIVIL SOCIETY.—Essays for Young Men, on the honor and happiness of Marriage, and the evils and dangers of Celibacy—with sanitary help for the attainment of man's true position in life. Sent free, in sealed envelopes. Address, HOWARD ASSOCIATION, Box P, Philadelphia, Pa. May 25 3mo

South Carolina Bank and Trust Co., OF COLUMBIA. (In Building formerly occupied by Carolina National Bank.)

BUY, SELL, AND EXCHANGE all issues of GOVERNMENT BONDS, at current market rates, also COIN and COUPONS, and execute orders for the purchase and sale of Gold, and all first-class securities, on commission.

ISSUE CERTIFICATES OF DEPOSIT, payable on demand, or at fixed date, bearing interest, and available in all parts of the United States.

ADVANCES made to our dealers, on approved collateral, at market rates of interest. COLLECTIONS made everywhere in the United States, Canada and Europe, and Exchange bought and sold.

Dividends and Coupons collected. HARDY SOLOMON, President. J. C. RATH, Cashier. June 23 3mo

Selling Off to Close Out.

AS I intend hereafter to keep only a FIRST-CLASS JEWELRY ESTABLISHMENT, I will sell out, at and below cost, my ENTIRE STOCK of Pistols, Guns, Powder Flasks, Shot Pouches, Caps, Cartridges, Powder and all other Fancy Articles.

ALSO, A fine lot of FANS, selling very low. ISAAC SULZBACHER, Columbia Hotel Row. June 1

E. Morris, Columbia, S. C. MANUFACTURER OF COTTON GINS, at \$3.50 per saw. Our Gins are warranted to please in every respect, or no sale. Premium awarded at last State Fair. Also, Wood Turning in every description and style, at short notice. June 30 3mo

Cheewists get Bayley's Michigan Pine Cut at EXCHANGE HOUSE.

THE DAILY



PHENIX.

"Let our Just Censure

Attend the True Event."

BY J. A. SELBY.

COLUMBIA, S. C. TUESDAY MORNING, AUGUST 23, 1870.

VOL. VI—NO. 133.

CODE OF PROCEDURE—Continued. TITLE XI.

OF APPEALS IN CIVIL ACTIONS.

CHAPTER I. Appeals in general.

CHAP. II. Appeals to the Supreme Court.

CHAP. III. Appeal to the Circuit Court from an inferior Court.

CHAPTER I.

APPEALS IN GENERAL.

SECTION 349. Writs of error abolished, and appeals substituted.

SEC. 350. Orders made out of Court, how vacated or modified.

SEC. 351. Who may appeal.

SEC. 352. Parties, how designated on appeal.

SEC. 353. Appeal, how made.

SEC. 354. Clerk to transmit papers to Appellate Court.

SEC. 355. Intermediate orders affecting the judgment may be reviewed on the appeal from the judgment.

SEC. 356. Judgment on appeal.

SEC. 357. Time for appealing.

SEC. 349. Writs of error in civil and criminal actions, as they have heretofore existed, are abolished; and the only mode of reviewing a judgment or order in a civil or criminal action shall be that prescribed by this title.

SEC. 350. An order made out of Court without notice to the adverse party, may be vacated or modified, without notice, by the Judge who made it, or may be vacated or modified on notice, in the manner in which other motions are made.

SEC. 351. Any party aggrieved may appeal in the cases prescribed in this title.

SEC. 352. The party appealing shall be known as the appellant, and the adverse party as the respondent. But the title of the action shall not be changed in consequence of the appeal.

SEC. 353. (1.) An appeal must be made by the service of a notice, in writing, on the adverse party, and on the clerk with whom the judgment or order appealed from is entered, stating the appeal from the same or some specified part thereof. (2.) When a party shall give, in good faith, notice of appeal from a judgment or order, and shall omit, through mistake, to do any other act necessary to perfect the appeal or to stay proceedings, the court may permit an amendment on such terms as may be just.

SEC. 354. If the appellant shall not, within twenty days after his appeal is perfected, cause a certified copy of the notice of appeal and of the judgment-roll, or, if the appeal be from an order or any part thereof, a certified copy of such order, and the papers upon which the order was granted, to be transmitted to the Appellate Court by the clerk with whom the notice of appeal is filed, the respondent may cause such certified copy to be transmitted by such clerk to the Appellate Court, and recover the expenses thereof, as a disbursement on such appeal, in case the judgment or order appealed from shall be in whole or in part affirmed; and this provision shall apply to all appeals heretofore taken, where the appeal has not been dismissed in the manner provided by the rules of the Appellate Court.

SEC. 355. Upon an appeal from a judgment, the Court may review any intermediate order involving the merits and necessarily affecting the judgment.

SEC. 356. Upon an appeal from a judgment or order, the Appellate Court may reverse, affirm, or modify the judgment or order appealed from, in the respect mentioned in the notice of appeal, and as to any or all of the parties, and may, if necessary or proper, order a new trial. When the judgment is reversed or modified, the Appellate Court may make complete restitution of all property and rights lost by the erroneous judgment.

SEC. 357. The appeal to the Supreme Court under sub-division two of section eleven of this Code, must be taken within sixty days after written notice of the order shall have been given to the party appealing; every other appeal allowed by the second chapter of this title must be taken within two years after the judgment shall be perfected by filing the judgment-roll.

CHAPTER II.

APPEALS TO THE SUPREME COURT.

SECTION 358. Appeal, in what cases.

SEC. 359. On appeal, security must be given or deposit made, unless waived.

SEC. 360. On judgment for money, security to stay execution. New undertaking on sureties in the first becoming insolvent.

SEC. 361. If judgment be to deliver document or personal property, it must be deposited or security given.

SEC. 362. If judgment be to execute conveyance, it must be executed and deposited.

SEC. 363. Security where judgment is to deliver real property or for a sale of mortgaged premises.

SEC. 364. Stay of proceedings upon security being given.

SEC. 365. Undertakings may be in one instrument or several.

SEC. 366. Security to be approved and sureties to justify.

SEC. 367. Perishable property may be sold, notwithstanding appeal.

SEC. 368. Undertaking must be filed.

SEC. 358. An appeal may be taken to the Supreme Court in the cases mentioned in section eleven. When the Circuit Court shall render judgment upon a verdict taken subject to the opinion of the court, the questions or conclusions of law, together with a concise statement of

the facts upon which they arose, shall be prepared by and under the direction of the court, and shall be filed with the judgment roll, and be deemed a part thereof, for the purposes of a review in the Supreme Court.

The provisions of this section shall apply to any judgment therein mentioned that has been heretofore rendered, and upon which an appeal has been brought and is now pending, or upon which an appeal shall hereafter be brought. When the return has already been filed with the clerk of the Supreme Court such statement shall be filed with him, and be deemed a part of such return.

SEC. 359. To render an appeal effectual for any purpose, a written undertaking must be executed on the part of the appellant by at least two sureties, to the effect that the appellant will pay all costs and damages which may be awarded against him on the appeal, not exceeding three hundred dollars, or that sum must be deposited with the clerk with whom the judgment or order was entered, to abide the event of the appeal. Such undertaking or deposit may be waived by a written consent on the part of the respondent.

SEC. 360. If the appeal be from a judgment directing the payment of money, it shall not stay the execution of the judgment, unless a written undertaking be executed on the part of the appellant, by at least two sureties, to the effect that, if the judgment appealed from, or any part thereof, be affirmed, or the appeal dismissed, the appellant will pay the amount directed to be paid by the judgment, or the part of such amount as to which the judgment shall be affirmed, if it be affirmed only in part, and all damages which shall be awarded against the appellant upon the appeal. Whenever it shall be made satisfactorily to appear to the Court that since the execution of the undertaking the sureties have become insolvent, the Court may, by rule or order, require the appellant to execute, file and serve a new undertaking as above; and in case of neglect to execute such undertaking within twenty days after the service of a copy of the rule or order requiring such new undertaking, the appeal may, on motion to the Court, be dismissed with costs.

Whenever it shall be necessary for a party to any action or proceeding to give a bond or an undertaking with surety or sureties, he may, in lieu thereof, deposit with the officer or into Court, as the case may require, money to the amount for which such bond or undertaking is to be given. The Court in which such action or proceeding is pending may direct what disposition shall be made of such money, pending the action or proceeding. In any case where, by this section, the money is to be deposited with an officer, a Judge of the Court, in term or at chambers, upon the application of either party, may, before such deposit is made, order it to be deposited in Court instead of with such officer; and a deposit made, pursuant to such order, shall be of the same effect as if made with such officer.

SEC. 361. If the judgment appealed from direct the assignment or delivery of documents of personal property, the execution of the judgment shall not be stayed by appeal, unless the things required to be assigned or delivered be brought into Court, or placed in the custody of such officer or receiver as the Court shall appoint, or unless an undertaking be entered into on the part of the appellant, by at least two sureties, and in such amount as the Court, or a Judge thereof, shall direct, to the effect that the appellant will obey the order of the Appellate Court upon the appeal.

SEC. 362. If the judgment appealed from direct the execution of a conveyance or other instrument, the execution of the judgment shall not be stayed by the appeal until the instrument shall have been executed and deposited with the clerk with whom the judgment is entered, to abide the judgment of the Appellate Court.

SEC. 363. If the judgment appealed from direct the sale or delivery of possession of real property, the execution of the same shall not be stayed, unless a written undertaking be executed on the part of the appellant, with two sureties, to the effect that, during the possession of such property by the appellant, he will not commit, or suffer to be committed, any waste thereon, and that, if the judgment be affirmed, he will pay the value of the use and occupation of the property, from the time of the appeal until the delivery of possession thereof, pursuant to the judgment, not exceeding a sum to be fixed by a Judge of the Court by which judgment was rendered, and which shall be specified in the undertaking. When the judgment is for the sale of mortgaged premises, and the payment of a deficiency arising upon the sale, the undertaking shall also provide for the payment of such deficiency.

SEC. 364. Whenever an appeal is perfected, as provided by Sections three hundred and sixty, three hundred sixty-one, three hundred sixty-two, and three hundred and sixty-three, it stays all further proceedings in the court below upon the judgment appealed from, or upon the matter embraced therein; but the court below may proceed upon any other matter included in the action, and not affected by the judgment appealed from. And the court below may, in its discretion, dispense with or limit the security required by Sections three hundred and

sixty, three hundred and sixty-one and three hundred and sixty-three, when the appellant is an executor, administrator, trustee, or other person acting in another's right; and may also limit such security to an amount not less than fifty thousand dollars, in the cases mentioned in Sections three hundred and sixty-one, three hundred and sixty-two, three hundred and sixty-three, where it would otherwise, according to those sections, exceed that sum.

SEC. 365. The undertakings prescribed by Sections three hundred and fifty-nine, three hundred and sixty, three hundred sixty-one, and three hundred and sixty-three, may be in one instrument or several, at the option of the appellant; and a copy, including the names and residences of the sureties, must be served on the adverse party, with the notice of appeal, unless a deposit is made as provided in section three hundred and fifty-nine, and notice thereof given.

SEC. 366. An undertaking upon an appeal shall be of no effect, unless it be accompanied by the affidavit of the sureties that they are each worth double the amount specified therein. The respondent may, however, except to the efficiency of the sureties, within ten days after the notice of appeal; and unless they or other sureties justify before a Judge of the Court below, as prescribed by sections two hundred and eighteen and two hundred and nineteen, within ten days thereafter, the appeal shall be regarded as if no undertaking had been given. The justification shall be upon a notice of not less than five days.

SEC. 367. In the cases not provided for in sections three hundred and sixty, three hundred and sixty-one, three hundred and sixty-two, three hundred and sixty-three, and three hundred and sixty-four, the perfecting of an appeal, by giving the undertaking mentioned in section three hundred and fifty-nine, shall stay proceedings in the court below upon the judgment appealed from, except that, where it directs the sale of perishable property, the court below may order the property to be sold, and the proceeds thereof to be deposited or invested in this State or United States bonds, to abide the judgment of the Appellate Court.

SEC. 368. The undertaking must be filed with the clerk with whom the judgment or order appealed from was entered. The provisions of this chapter as to the security to be given upon appeals, and as to the stay of proceedings, shall apply to appeals taken under sub-division three of section eleven.

[CONTINUED IN OUR NEXT.]

Great Inducements

TO THE Trade and Public generally

AT THE MAMMOTH BOOT, SHOE, HAT

AND TRUNK EMPORIUM

OF A. SMYTHE,

MAIN STREET, COLUMBIA HOTEL BUILDING.

HAVING determined to reduce my present spring and summer stock of BOOTS, SHOES, HATS, &c., which is very large and complete, in order to make arrangements for the fall trade, I offer all goods in my line at cost for the next thirty days; at which time stock will be taken. This is a rare opportunity, especially for the trade and consumers, to secure great bargains, and I would most respectfully solicit a call.

A. SMYTHE.

Time Extended Thirty Days.

June 25

New Publications.

THE CHRISTMAS GUEST, by Mrs. Southworth.

The Court and Times of Queen Elizabeth, by Miss Aiken, \$2.25.

The Gaged Lion: a Novel, by Miss Yonge, \$1.25.

Hammer and Anvil, Spiegelhauser's last and best novel, \$2.00.

Memoir of Dr. Scudder, 36 years Missionary in India, \$1.75.

Prince of Wales' Travels in Egypt, Constantinople and the East, \$1.50.

The Year of Balaam, by Trollope, \$1.25, and other new books for sale at BRYAN & MCCARTER'S Bookstore.

Beer! Beer!!

SOME dealers in this city have been in doubt that I could hold out supplying them with Beer this summer. I now inform the public that I have a large supply of old Lager Beer on hand, which I put against any Beer brought from the North, or even imported from Germany, as to purity and strength. I am ready to test it by the Beer scale.

Aug 20 JOHN C. SIEGERS.

Fine Gold Watches

OF all descriptions, for Ladies and Gentlemen, for sale at WILLIAM GLAZE'S,

One door North of Messrs. Scott & Williams' Banking House. Dec 16

New Flour

5 10 sacks do All of wheat of this harvest, for sale low, by

July 2 LORRICK & LOWRANCE.

Guns and Ammunition.

JUST received by William Glaze, fine English BREECH-LOADING GUNS, fine English Powder, in Canisters, Shot and Caps, of all kinds. One door North of Messrs. Scott, Williams & Co.'s Banking House. Dec 16

Hungry and thirsty people can get satisfied every time at EXCHANGE HOUSE.

GEO. HUGGINS' INSURANCE AGENCY.

ESTABLISHED IN COLUMBIA, S. C., 1849.

Old and Wealthy Companies

Represented.

AGGREGATE CAPITAL OVER

\$25,000,000!

FIRE DEPARTMENT.

Ætna Fire Insurance Company

OF HARTFORD, CONN.

Chartered 1819—Charter Perpetual.

ASSETS \$6,000,000.

Imperial Fire Insurance Co. of London,

Chartered 1803.

ASSETS \$8,000,000 IN GOLD.

This Company insures against Fire only.

No Marine or Life risks taken, as in most Foreign Insurance Companies.

Manhattan Fire Ins. Co., of New York,

Chartered 1821.

The oldest Fire Insurance Company in the City of New York.

ASSETS \$1,400,000.

Phenix Fire Ins. Co., of Brooklyn, N. Y.

Chartered 1853.

Assets \$2,000,000.

FUTNAM FIRE INS. CO., of Hartford, Conn.

Chartered 1864.

Assets \$700,000.

UNION FIRE INS. CO., of San Francisco, Cal.

Chartered 1865.

Assets \$1,200,000 in Gold.

Policies issued payable in Gold or Currency.

LIFE DEPARTMENT.

KNICKERBOCKER LIFE INSURANCE CO.,

of New York.

Chartered 1853.

Assets \$7,500,000.

The above Companies have each made the deposit of South Carolina State Bonds, with the Comptroller-General of the State, as required by the Act of the General Assembly.

The undersigned has conducted the business of this Agency for the last twenty-one years, during which period no case of litigation with any claimant has ever occurred.

RISKS TAKEN IN COLUMBIA

AND UPPER COUNTIES OF THE STATE.

All Claims for Losses

Adjusted and Paid

AT THIS AGENCY.

GEORGE HUGGINS, AGENT,

Office under the "Columbia Hotel,"

In rear of Messrs. Duffie & Chapman's,

Columbia, S. C.

GEORGE HUGGINS, Notary Public,

Aug 9 1m COLUMBIA, S. C.

To Physicians! To Physicians!

New York, August 15, 1868.

ALL W me to call your attention to my PREPARATION OF COMPOUND EXTRACT BUCHU. The component parts are BUCHU, LONG LEAF, CUBEB, JUNIPER BERRIES.

MODE OF PREPARATION.—Buchu, in vacuo, Juniper Berries, by distillation, to form a tincture. Cubeb extracted by displacement with spirits obtained from Juniper Berries; very little sugar is used, and a small proportion of spirit. It is more palatable than any now in use.

Buchu, as prepared by Druggists, is of a dark color. It is a plant that emits its fragrance; the action of a flame destroys this, (its active principle,) leaving a dark and glutinous decoction. Mine is the color of ingredients. The Buchu in my preparation predominates; the smallest quantity of the other ingredients are added, to prevent fermentation; upon inspection, it will be found not to be a tincture, as made in Pharmacopoeia, nor is it a syrup—and therefore can be used in cases where fever or inflammation exists. In this, you have the knowledge of the ingredients and the mode of preparation.

Hoping that you will favor it with a trial, and that upon inspection it will meet with your approbation. With a feeling of confidence, I am, very respectfully,

H. T. HELMBOLD,

Chemist and Druggist of 19 years' experience.

[From the largest Manufacturing Chemists in the World.]

NOVEMBER, 4, 1854.

"I am acquainted with Mr. H. T. Helmbold. He occupied the Drug Store opposite my residence, and was successful in conducting the business where others had not been equal to so before him. I have been favorably impressed with his character and enterprise."

WILLIAM WRIGHTMAN,

Firm of Powers & Weightman,

Manufacturing Chemists, Ninth and Brown streets, Philadelphia.

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S

HELMBOLD'S